



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 27, 2015

Mr. Edward P. Kiner #114860
1946 West US Highway 40
Greencastle, IN 46135

Re: Formal Complaint 15-FC-132; Alleged Violation of the Access to Public Records Act by the Vermillion County Circuit Court

Dear Mr. Kiner,

This advisory opinion is in response to your formal complaint alleging the Vermillion County Circuit Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Court has responded to your complaint via Hon. Judge Bruce V. Stengel. His response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 15, 2015.

BACKGROUND

Your complaint dated April 7, 2015 alleges the Vermillion County Circuit Court violated the Access to Public Records Act by failing to provide the records you requested. You claim you were denied access to records on November 6, 2014. You also allege an Open Door Law violation; however, you do not identify any factual circumstances lending themselves to an Open Door Law violation. Therefore, this opinion will only discuss the potential APRA violation.

On April 16, 2015, Judge Stengel responded to your complaint. Judge Stengel notes you made no formal request to Vermillion County, nor is there a record of you ever filing a request for access. In response, Judge Stengel believes you appear to refer to your motion to compel discovery. He notes this motion was denied and failed on appeal. Finally, Judge Stengel also notes the depositions you require were never filed with the Clerk's Office or the Judge's Office, and those records are not in their possession.



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ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Vermillion County Circuit Court is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Court’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

Please be advised trial discovery and access to public records are two mutually exclusive devices to obtain information. These two considerations involve two different statutory protocols. Intertwining the two only serves to create confusion and muddy the waters between the judiciary’s sovereign jurisdiction over trial procedures and this Office’s education initiative of governmental transparency and openness best practices.

The motion you filed is not an access to public records request and is exclusively under the purview of Judge Stengel. This Office does not weigh in on discovery matters nor does it interpret Indiana Trial Rules.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Vermillion County Circuit Court has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor



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Cc: Hon. Judge Bruce Stengel